



# Penny Bernard Schaber

*Serving the heart of Appleton*

STATE REPRESENTATIVE 57th ASSEMBLY DISTRICT

Good Morning Chairman Richards and members of the Health Care and Health Care Reform Committee. I am happy and proud to be here today as the author of AB 275. This bill establishes a Physical Therapy Examining Board within the Department of Regulation and Licensing.

I have been studying or practicing Physical Therapy for 35 years, first as a Physical Therapist Assistant and now as a Physical Therapist. I have watched my profession grow and change in those years. You will hear from other supporters of this bill about some of the changes in the profession of Physical Therapy. I am testifying today to ask you to recognize and acknowledge the improved level of education and the increased autonomy in practice that the profession of Physical Therapy has earned. My profession has become a research based and outcome supported profession, moving from an educational level of a certificate to practice Physical Therapy to a Doctorate Level Education Program.

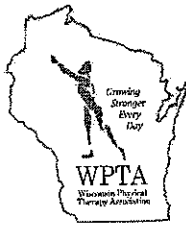
AB 275 establishes a Physical Therapy Examining Board. The establishment of our own Physical Therapy Examining Board will act to update statutes making our regulatory board reflect our profession. This board will be part of the Department of Regulation and Licensing.

Physical Therapy is practiced in many settings and has many areas of specialization which include all aspects of health. AB 275 acknowledges the growth and evolution of a profession that has positive impacts on the quality of many lives.

I have greatly enjoyed my 35 years of being in the Physical Therapy profession. I urge you to support AB 275. I am able to answer any questions at this time or I can wait and answer questions after others have testified.

Thank you.

Penny Bernard Schaber, PT



# Wisconsin Physical Therapy Association

A CHAPTER OF THE AMERICAN PHYSICAL THERAPY ASSOCIATION

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To: Assembly Committee on Health & Healthcare Reform  
From: Jason E. Johns, on behalf of the WPTA  
Re: Support for AB 275  
Date: September 30, 2009

## Chairman Richards and Members of the Committee;

Good morning and thank you for allowing me to speak to you today on AB 275. You have all ready heard or will hear from others on why they support the passage of AB 275. I had not intended to testify before you today as I have previously had the opportunity to speak with each of you on this legislation. However, after reviewing the memorandum sent to this committee's members late in the afternoon yesterday from the WATA, I felt compelled to appear before you today and address the misrepresentations made therein.

- The WATA claims that the current Physical Therapists Affiliated Credentialing Board will "be removed from the oversight of the Medical Examining Board". This statement attempts to paint a picture that currently the MEB oversees all actions of the PTACB and has "veto power" or control of these actions. This is not true. The only "oversight" that the MEB has over the PTACB is that the PTACB is required to submit to the MEB any rules promulgated and the MEB is to comment on them. If AB 275 were to be passed in to law, and a PTEB was established, the MEB still has the right and ability to comment on any rules promulgated by it. In fact, any board within the DRL, affiliated or otherwise, has the ability to comment.
- The WATA posed the question "If the Legislature creates a separate board for the PTs, why not create one for the dietitians, podiatrists, athletic trainers, and occupational therapists? Although the picture of a "slippery slope" is trying to be painted here, in order for a slippery slope argument to be made one needs to compare professions with similar education and scope of practice. Clearly, this is not the case. Dietitians do not have licensure, and they, the athletic trainers and occupational therapists earn an undergraduate degree not to mention all three of their scopes of practice require direct referral from a physician in all cases. Thus the statute that governs affiliated credentialing boards stating that the "*profession does not practice independently from the profession it is affiliated with*" clearly is current and applies. Physical therapists earn a seven year doctoral program degree and have been granted direct access in non Medicare/MA situations thus this statute does not apply accurately to their profession and needs to be updated.
- WATA states that "the current caseloads of PTs are overwhelmingly patients under physician referral". WPTA has never claimed that passage of AB 275 will lead to

severing of the profession's relationship with physicians. Physical therapists currently have a very collegial and interactive relationship with the physicians that refer to them and will continue to do so. We have consistently stated that as a result of having direct access, and the ability to see patients without a referral in many cases, is a supporting factor in establishment of an examining board to reflect this. Establishment of an examining board will not lead to a deterioration of this PT/physician relationship, just recognition of our scope of practice and how it should be regulated.

- WATA states that "direct access for physical therapists is in its infancy at the present time". This is not the case. Physical Therapists have had direct access in Wisconsin since 1995. There are many factors taken in to account when a patient is considering direct access to a PT. The biggest one being insurance coverage. Although many patients who utilize direct access to physical therapy are covered by their insurance, there is still a ways to go. But as we all know in this day and age, convincing insurance companies to provide coverage for the simplest things can sometimes be like pulling teeth. I do not consider almost 15 years of direct access and many patients utilizing it as "in its infancy".
- WATA states that WPTA's "other argument in favor of an independent board is that we would be able to have more meetings". WPTA has never stated this in this manner. We have stated that an examining board will have the ability to request more meetings and this request will be more likely to be granted due to its status as an examining board versus an affiliated board.
- In regards to what the WATA states in regards to the new Med Board Bureau, we do not dispute that there will be new revenue sources and staff available to this bureau and that the current PTACB is included under this bureau as per the 2009-2011 state budget. This new bureau was established at request of the MEB due to its own inability to be able to keep up with its caseload regarding physicians and some missed disciplinary actions that endangered patient safety. Although it would on the surface appear that these resources would also be committed to the PTACB and its caseload, the WPTA and the current members of the PTACB would just as soon see its licensure fees applied towards regulation of its own profession by those who pay for it. A PT Examining board would be funded through increased licensure fees for the physical therapy profession. There would be no cost to the state. Thus if the new examining board requests additional meetings and staff based on its caseload, the DRL would calculate this in a time based formula it will use every biennium and assess any increased fees appropriately (this power to raise licensure fees based on a time based formula was given to the DRL in the 2007-09 budget). Thus, we are not losing any funding or staff assistance by not continuing to be affiliated with the MEB in this new Med Board Bureau. And in fact could potentially see more funding and staff support under an examining board that is 100% funded by PT licensure fees rather than under the Med Board Bureau that will have all affiliated boards' fees thrown in to a general pot and distributed as the MEB deems appropriate.
- WATA states that "it is opposed to AB 275 because it shifts all the rule-making power to a board comprised solely of physical therapists, thus eliminating any physician oversight currently provided by the MEB". First off, the board currently has and will continue to have a public member appointed to it. Second, I refer to my previous point that the MEB will continue to have the ability to comment on any rules the new board would promulgate. Not to mention, if there are concerns by the MEB, the Medical Society, or any member of this legislative body in regards to rules promulgated by the new board,

these can all be expressed and heard in the administrative rules process. There is nothing in AB 275 that creates a special exemption to the board or allows it to circumvent the administrative rules process.

- WATA states that "it strongly desires to work with the WPTA in the coming weeks regarding their concerns, that we have a meeting scheduled for October 8<sup>th</sup>, and that they believe that we can work through the issues at hand thus you should not take a vote on this bill prior to that date. It is completely within the power of Chairman Richards as to when a vote is to be taken and we hope that such vote is taken in the very near future. But as far as the meeting on October 8<sup>th</sup> and "working through the issues at hand" please do not be fooled by this statement. What issues can be worked through? AB 275 seeks establishment of a physical therapy examining board. That's it, that's all. It does nothing more. Why WATA continues to claim that we can reach a "compromise" is beyond me. Their opposition to AB 275 is not based on "loss of physician oversight by the MEB", etc."If it were, then why isn't the MEB and the Medical Society here today testifying by their side in opposition? It is merely a veiled attempt at forcing the WPTA to not oppose their upcoming scope of practice revision and expansion. The October 8<sup>th</sup> meeting mentioned is in regards to WPTA's concerns with that legislation and we have made it abundantly clear that AB 275 is not on the table as it is its own bill.

I again appreciate the opportunity to appear before you today and ask for your support of AB 275. At this time I would be happy to take any questions from the committee?

Thank you,

Jason E Johns

On behalf of the Wisconsin Physical Therapy Association

To: Assembly Committee on Health and Health Care Reform

From: Ryan Berry, Licensed Athletic Trainer, and President of Prevention First; Safety & Medical Management Systems Inc.

Date: September 30<sup>th</sup>, 2009

Re: Opposition to AB 275

My name is Ryan Berry of Appleton, WI and I am one of roughly 1000 Athletic Trainers in the State of Wisconsin. I currently serve the Department of Regulation and Licensing as a member of the Athletic Trainers Affiliated Credentialing Board. I am here today not representing the Department or this Board. I am here today representing myself, my business, and my profession in the opposition of AB 275.

During my career as a Licensed Athletic Trainer I have worked in a variety of settings including the collegiate, hospital & clinic, rehabilitation, and the industrial/occupational setting. I am currently the President of Prevention First, a Safety & Medical Management company specializing in the prevention, management, and containment of workplace injuries and the implementation of innovative safety processes that assist employers in their hiring, retention, and medical management of their human resources. During these experiences, I have worked collaboratively and often synergistically with many medical professionals including numerous Physical Therapists.

There are currently no reliable reasons for removal of the Physical Therapists Affiliated Credentialing board from the oversight of the Medical Examining Board at this time. Whether justified as practice reflection, or limited regulatory resources, few if any convincing arguments can be made to validate the primary and sole intention of this legislation as a clear and more efficient regulatory option for the Physical Therapy Profession. My resistance to AB 275 is not directed at the many qualified Physical Therapists who I call friend and colleague; it is to the well documented and predictable agenda of restricting my ability to practice in the many environments that I am trained and qualified.

Nationally, many of these concerns have played out in questionable and divisive independent Board rule-making processes that do little to advance health care initiatives or improve patient care and public protection. Instead, legislative and legal resources are directed at these semantic strikes leaving interpretation of words like "can" and "may" to decide whether I am allowed to actually use my available skill-set in clinical care.

Members of this committee, in a time where resourcefulness and collaboration are necessary to solve the many challenges in Wisconsin employment and health-care, I urge you to look closely at the necessity of this legislation and ask whether there is a compelling current need for passage.

The settlement agreement is known as the "Joint Statement on Cooperation" between NATA and APTA. It is a public document that will be displayed prominently and be readily accessible for members by both Associations for the next three years. Some major points of the Joint Statement are:

- The APTA acknowledges that athletic trainers are health care professionals authorized to provide interventions within their scope of practice.

- ***The APTA acknowledges that the scopes of practice of the two professions overlap to some extent.***

- By signing the statement, the APTA agrees that athletic trainers work on "patients."

- The APTA agrees to compete ethically in the marketplace. APTA agreed not to make any false or misleading statements about ATs, including that they are "unqualified," "not qualified," "non qualified," or the like.

- The APTA agrees that PTs are not the exclusive providers of manual therapy, and ATs are qualified to provide manual therapy.

- The APTA agrees that the Physical Medicine and Rehabilitation codes are not exclusive to any one particular provider, with the exception of the evaluation and re-evaluation codes for both AT and PT.

- The APTA agrees that both ATs and PTs are required, per their academic education, to be competent in some forms of manual therapy. Both ATs and PTs are tested for competence in manual therapy.

- Both Associations agree that members should practice within their respective licensed or regulated scopes of practice, as determined by legislatures and regulatory bodies.

- The Joint Statement briefly outlines the educational, clinical and certification requirements for both professions, and notes that there are differences in education.

- The APTA acknowledges that the Dallas Federal District Court found that the case had merit to proceed. This is important because there is a very high standard for anti-trust cases to be accepted by a federal court. The APTA did not admit guilt and denies there was any factual basis for the suit.



## WISCONSIN ATHLETIC TRAINERS' ASSOCIATION

To: Assembly Committee on Health and Health Care Reform

From: Board of Directors, Wisconsin Athletic Trainers' Association, Inc.

Date: September 30, 2009

Re: Opposition to AB 275

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The Wisconsin Athletic Trainers' Association represents over 1000 athletic trainers and athletic training students in the State of Wisconsin.

The WATA is opposed to AB 275, which would remove physical therapists as an affiliated board under the Medical Examining Board and create a separate, independent examining board for physical therapists.

Athletic Trainers are not personal trainers. We are versatile medical providers that are trained to perform a broad spectrum of medical services that are in need by the active population in the State of Wisconsin. Some athletic trainers specialize in the provision of rehabilitation services. Our scope of practice certainly overlaps that of physical therapists in this area. An athletic trainer also is an allied healthcare provider recognized by the American Medical Association in 1990, and athletic trainers have been licensed in the State of Wisconsin since 1999. Importantly, over 40% of athletic trainers now work within hospitals, clinics, industry and other areas of employment beyond the more traditional professional and collegiate settings of employment.

Licensed athletic trainers work in three typical environments in the State of Wisconsin:

- 1) The Professional, Collegiate and High School Setting, (i.e. the Green Bay Packers and UW Badgers)
- 2) The Hospital and Clinic Setting
  - Responsibilities: Rehabilitation, Orthopedic and Sports Medicine Clinics, Secondary School and Club Sports Outreach
- 3) The Industrial Setting
  - Large employers including Quad Graphics, Alliance Laundry, and Land's End

There continues to be NO compelling reason for passage of AB 275. The bill removes the Physical Therapist Affiliated Credentialing Board from the oversight of the Medical

Examining Board. If the Legislature creates a separate board for the PTs, why not create one for the dietitians, podiatrists, athletic trainers, and occupational therapists?

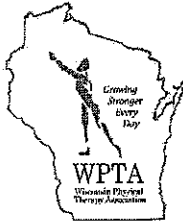
The Wisconsin Physical Therapists Association has stated the need for this bill is driven by two primary factors. The first is that their profession has grown to become an autonomous profession and that they possess direct access to see patients without a physician referral. Despite direct access capability by law, the overwhelming percentage of patients who see physical therapists are referred by a physician. Additionally, it is misleading to say that physical therapists already practice predominantly in a direct access capacity and that they simply want their practice act to reflect that. This does not accurately reflect the current caseload of PTs who overwhelmingly see patients under physician referral. Direct access is simply in its infancy at the present time.

The WPTA's other argument in favor of an independent board is that they would be able to have more meetings. The Department of Regulation and Licensing will be able to refute this point. Meetings are set by caseload, not based on whether a board is independent from the Medical Examining Board (MEB). The 2009-2011 state budget adds eight new positions and transfers 8.9 current DRL positions to create a new Med Board Bureau to handle all enforcement, credentialing and Board services needs for Med Board professions. This new Bureau was created so that DRL could streamline their efforts to investigate and resolve cases in a timelier manner. Not only will the separation of the PTs from the MEB not guarantee that they will have more meetings but they would be giving up the added services that the new Med Board Bureau may offer to affiliated boards.

The Wisconsin Athletic Trainers Association is opposed to AB 275 because it shifts all the rule-making power to a board comprised solely of physical therapists, thus eliminating any physician oversight currently provided by the MEB. It simply makes it much easier for the Board to make rules and policy that govern their profession. This could adversely impact athletic trainers or other allied health providers. This may or may not include future rules which determine what services physical therapists can provide without referral and who can provide care with physical therapists. We also dispute the WPTA position that this bill cannot affect the athletic training profession. The interpretation of rules and policies at the federal and state level has affected and will continue to affect athletic training employment in the rehabilitation and orthopedic clinic setting.

The WATA strongly desires to work with the Wisconsin Physical Therapy Association in the coming weeks regarding our concerns. We have an upcoming meeting to address issues remaining between our associations on October 8<sup>th</sup>. We believe we can work through the issues at hand and believe our associations should do this before any vote is made on this bill. The WATA sincerely appreciates your time, attention, and consideration of our concerns.





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To: Assembly Committee on Health & Healthcare Reform

From: Rob Worth, President, Wisconsin Physical Therapy Association

Re: Support for AB 275

Date: September 30, 2009

## Members of the Committee:

Good morning and thank you for giving me the opportunity to address you today regarding AB 275. Representative Bernard Schaber has all ready addressed the legislation in regards to what it does. I wish to speak to you today as a constituent of Penny's and also in my role as President of the Wisconsin Physical Therapy Association. In my career as a physical therapist I have seen a vast transformation in our education, training, and practice. The general public has also seen this and utilizes physical therapy at a degree higher than ever. As a result, this legislature has also recognized the transformation and progression that we have made by granting us licensure and direct access. However, your approval and recognition of our education and training through our scope of practice and regulation is not yet complete. One very vital and symbolic component is missing; a physical therapy examining board. As Representative Bernard Schaber mentioned, establishment of a physical therapy examining board by this body will update statute to have our regulatory board reflect the current state of our profession.

Precedent for independent oversight, regulation and disciplinary action exists nationally for physical therapy. According to the Federation of State Boards of Physical Therapy, 35 states currently regulate physical therapy via stand alone boards with the continued national trend towards having physical therapy examining boards.

The PTACB has not required any guidance or intervention from the Medical Examining Board since the inception of the PTACB in 1999 and has been functioning in a manner consistent with the statutory definition of an examining board. The fact that no meetings have occurred between the PTACB and the Medical Examining Board in over 9 years would support the premise for a PT examining board. The change is simply a matter of housekeeping to reflect the current function of the board. AB 275 would not change the rule-making authority of the new Board of Physical Therapy Examiners from that of the current Physical Therapists Affiliated Credentialing Board, nor would it expand the scope of practice for physical therapists and physical therapist assistants.

What it would do is allow for this examining board to have the possibility to meet more frequently, providing greater opportunity to regulate the profession and more effectively protect the public. It would further ensure that physical therapy services rendered to the public are provided safely and effectively by qualified physical therapy professionals.

It should be re-iterated that this bill would not grant additional powers that are not currently provided by statute to all other examining boards within DRL, nor does it provide any scope of practice expansion. A physical therapy examining board would regulate only the physical therapy profession. The two groups most affected by this, the Medical Examining Board and the Wisconsin Medical Society have no opposition to AB 275. This alone speaks for itself that they recognize it is time for the profession to have its own examining board. We therefore ask that you complete the recognition of the physical therapy profession for the respected and qualified career that it has become.

I sincerely thank you, the members of the Assembly Health & Healthcare Reform Committee, for your consideration in supporting AB 275 and would invite any questions that you may have at this time.

Thank you.

Rob Worth, PT, DPT, LAT

President, Wisconsin Physical Therapy Association

**To:** Assembly Committee on Health & Healthcare Reform

**From:** Paul Reuteman PT, OCS, LAT and Kip Schick, PT, DPT, MBA

**Re:** Support for AB 275- Establishment of a Physical Therapy Examining Board

**Date:** September 30, 2009

**Members of the Committee;**

Good morning and thank you for allowing us the opportunity to address you today. My name is Kip Schick and with me is Paul Reuteman. I am a doctorally trained physical therapist and currently serve as the Director of Orthopedics at the University of Wisconsin Hospital and Clinics in Madison where I work closely with a team of health care professionals, including physicians, physical therapists and athletic trainers and other professions in the clinic, rehabilitation, and outreach settings. Paul Reuteman is both a licensed Physical therapist and Athletic Trainer in the state of Wisconsin and serves as Clinical Associate Professor at the University of Wisconsin – La Crosse in their Program of Physical Therapy. He also continues to maintain an active practice at Gundersen Lutheran Sports Medicine in La Crosse where he works along side a variety of health care providers including Athletic Trainers. We felt compelled to come speak to you today about our support for AB 275 and our surprise that the Wisconsin Athletic Trainer's Association continues to oppose this legislation. We are here to emphasize that establishment of a physical therapy examining board at DRL simply will have no effect on athletic trainers in the state of Wisconsin. If created, the new board will only have jurisdiction over the profession of physical therapy, period. Claims by the Wisconsin Athletic Trainer's Association and its members that AB 275 will allow the board to expand the scope of physical therapy and "fence out" athletic trainers are simply not true. AB 275 does not grant any additional powers to a newly created physical therapy examining board than what currently exists in statute and applies uniformly and equally to all examining boards. Thus, there will be no "super-PT-board" than can arbitrarily promulgate rules to expand PT scope of practice as claimed by the Wisconsin Athletic Trainer's Association. Any rules promulgated by the board would have to follow the same process of administrative rulemaking which obviously includes coming before this legislative body. The checks and balances still exist. In addition, generally, examining boards at DRL do not draft legislation, and if they do, it has to go through the same bill process as any other bill in order to become law. Again, checks and balances.

We find it odd that the WATA has chosen to be the only group that opposes a bill that does not affect them, and yet the two groups most affected by this bill, the Medical Examining Board and the Medical Society, have no opposition to AB 275. Perhaps the Wisconsin Athletic Trainer's Association's reason for opposing AB 275 is not because of the actual substance of the bill, but rather an attempt to force a "quid pro quo" with yet to be introduced draft legislation by the Wisconsin Athletic Trainer's Association, which is attempting to revise and expand its scope of practice. We have concerns with the Wisconsin Athletic Trainer's Association draft legislation, but we will not discuss that today as it is our feeling that AB 275 and the Wisconsin Athletic Trainer's Association draft legislation are two completely separate pieces of legislation and should be debated on their own merits. We merely bring this to your attention to point out that is more than a coincidence that the Wisconsin Athletic Trainer's Association is opposing

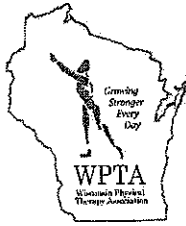
a bill supported by the Wisconsin Physical Therapy Association, when the Wisconsin Athletic Trainer's Association is trying to get the Wisconsin Physical Therapy Association to remove its opposition to the draft language offered by the athletic trainers. As stated previously, we fully intend to debate the merits of each piece of legislation separately and on their own merits.

Again, we appreciate you having us here today and hope you will support AB 275. Passing AB 275 acknowledges the level of autonomy attained by the physical therapy profession across the State of Wisconsin without changing or modifying any of the current checks and balances that exist in the creations of legislation and/or rules promulgation.

At this time, we would be happy to take any questions.

Thank you.

Kip Schick, PT, DPT, MBA and Paul Reuteman, PT, OCS, LAT



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**To:** Assembly Committee on Health & Healthcare Reform  
**From:** William Boissonnault, PT, DHSc, FAAOMPT  
**Re:** Support of AB 275  
**Date:** September 30, 2009

## Members of the Committee;

Good morning and thank you for your time today. My name is Bill Boissonnault and I am here today to ask for your support of AB 275 which would establish a physical therapy examining board within the Department of Regulation & Licensing. I have been a professor in the UW-Madison physical therapy program for the past 9 years, and provide patient care at UW Hospital and Clinics. As a faculty we often discuss with the students what it means to be a professional, and the responsibilities associated with carrying the title of "doctor" of physical therapy. The American Physical Therapy Association has adopted 7 core values associated with being a professional, expectations for any practicing therapist. The 7 includes Accountability, Professional Duty and Social Responsibility, qualities our students are assessed on throughout our programs.

All 6 of the accredited physical therapy programs in Wisconsin and 98% of the accredited physical therapy programs at universities around the country are now offering a doctorate in physical therapy. We have direct access, licensure, and a scope of practice in place that appropriately reflects our education and training. Clearly, our profession has advanced in a manner deserving of and necessitating an examining board to oversee it.

Over a decade ago the Wisconsin Legislature passed a law granting physical therapists the responsibility of seeing patients, both those with a physician referral and those without-via direct ccess. Consistent with the ability to see patients independent of a physician referral is the ability to oversee and regulate our practice. Traditionally, the legislature has acted to establish regulatory boards befitting professions' education and scopes of practice.

Graduating students, the physical therapists of tomorrow, are going to graduate with a doctorate in physical therapy, the culmination of seven years of hard work. These physical therapists have been entrusted with patient safety and health, and believe having their own examining board would reflect this trust. Continuing to have an affiliated credentialing board with the MEB does not accurately reflect the trust that this legislature has placed in them, nor does statute.

I ask for your support of AB 275 and again thank you for your time and attention to this legislation. I will be happy to take any questions from the committee?

William Boissonnault, PT  
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